

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

IN RE:)
CASE OPERATIONS AND)
COURTHOUSE ENTRY)
DUE TO COVID-19 RESPONSE)

ORDER

WHEREAS this Court continues to evaluate its response to the spread of the COVID-19 virus, and recognizes the need to accommodate extenuating circumstances to assist in the effective administration of justice during this period of national emergency; and

WHEREAS the Judicial Conference of the United States (JCUS) has found under the CARES Act, P.L. 116-136, 134 Stat. 281 (CARES Act), that emergency conditions due to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. §1601 et seq.) with respect to COVID-19 have materially affected and will materially affect the functioning of the federal courts generally;

NOW THEREFORE, effective March 15, 2021, the Court hereby vacates all prior Orders of this Court relating to case administration during the COVID-19 pandemic, and adopts the following Order:

1. Jury trials may commence in any Division of this District, but due to the precautions necessary to commence an in-person court proceeding during the current pandemic, including but not limited to effective social distancing measures for jurors, parties, witnesses, public, and court staff, only a very limited number of jury trials or other in-person criminal proceedings may commence;

2. In-person criminal proceedings shall take general precedence over in-person civil proceedings. In-person civil proceedings may only commence if an extenuating circumstance demands that an in-person proceeding is necessary in the interests of justice in a particular case,

and, provided that the timing of other proceedings within the Court would allow, the presiding judge enters an Order allowing an in-person proceeding in the civil case;

3. The Court finds that health concerns related to COVID- 19 continue to require that gatherings of people be limited, and that the use of appropriate health screening, social distancing, and personal protective equipment must be continued. Thus, only a limited number of jurors can be called at once, so that the Court can take appropriate measures to ensure a fair cross-section of the community is summoned under the present circumstances. If the Court did not limit the number of jurors and jury trials commencing at any one time, then the Court would not be able to implement the public health measures necessary in order to proceed with jury trials, which would negatively impact the fair administration of justice and the rights of defendants. These interests and concerns, coupled with the need to protect the health and safety of defendants, their counsel, prosecutors, court staff, and the public by limiting the number of in-person hearings, and due to the inability of the Court to ensure that a fair cross-section of jurors would be available for a large number of jury trials during the specified time, outweigh the interests of each defendant's right to and the public's interest in a speedy trial. Accordingly, pursuant to 18 U.S.C. § 3161(h)(7)(A), the time period of continuances through June 4, 2021 shall be excluded when computing the time within which trial must commence;

4. This Court recognizes that emergency conditions exist throughout this District, as found by the JCUS under the CARES Act. This Court recognizes that it is required under Sections 15002(b)(3)(A) and (B) of the CARES Act to review the findings and authorizations made in this Order no later than ninety (90) days after its initial Order or any subsequent renewal. In the interest of public health and safety, this Court must continue to take precautionary measures to limit in-person appearances to the extent allowed by law, whenever

possible as directed by the presiding judge in the case. This Court hereby renews in this Order its initial findings and authorizations from its [March 30, 2020 Order](#), its [May 29, 2020 Order](#), its [July 30, 2020 Order](#), its [September 1, 2020 Order](#), its [November 24, 2020 Order](#), and its [December 15, 2020 Order](#), and will review these findings and authorizations under this Order no later than June 4, 2021;

5. This Court authorizes on its own motion the use of video conferencing, or telephone conferencing if video conferencing is not reasonably available, in the criminal procedures specifically enumerated in Section 15002(b)(1) of the CARES Act, to wit:

- a. Detention hearings under section 3142 of title 18, United States Code;
- b. Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;
- c. Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
- d. Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
- e. Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
- f. Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
- g. Pretrial release revocation proceedings under section 3148 of title 18, United States Code;
- h. Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
- i. Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and

j. Proceedings under chapter 403 of title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings;

6. This Court finds on its own motion, under Section 15002(b)(2) of the CARES Act, that all of its felony pleas in this district under Rule 11 of the Federal Rules of Criminal Procedure and its felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety, and thus the use of video conferencing – or telephone conferencing if video conferencing is not reasonably available – is permitted in such cases;

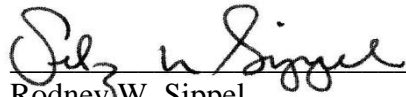
7. Under Section 15002(b)(2)(A) of the CARES Act, any judge presiding in a particular case who authorizes the use of video conferencing or telephone conferencing if video conferencing is not reasonably available under paragraphs 5 or 6 of this Order, must find for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice. Under Section 15002(b)(4) of the CARES Act, this authorization may occur only with the consent of the defendant, or the juvenile, after consultation with counsel. The presiding judge in the case may authorize remote means including but not limited to participation of defense counsel in the video or telephone conference to facilitate consent of the defendant;

8. All proceedings shall be conducted by means other than in-person meetings wherever possible by law unless otherwise directed by the presiding judge in the proceeding;

9. This Court hereby suspends all requirements related to in-person participation in Alternative Dispute Resolution (ADR) under Local Rule 6.02(C) in order to allow for ADR to take place by any remote means agreed upon by the parties;

10. This Court recognizes that the current national response to COVID-19 may result in the need for parties to request continuances or other relief. Parties requesting relief must file a motion specifying the relief requested and the judge will rule promptly on that motion. Parties must consult with opposing parties before filing any motion for relief under this subsection, and such motions should be filed by consent wherever possible.

SO ORDERED this 8th day of March, 2021.

A handwritten signature in cursive script, appearing to read "Rodney W. Sippel", written over a horizontal line.

Rodney W. Sippel
Chief United States District Judge